



STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY BOARD OF REAL
ESTATE APPRAISERS

IN THE MATTER OF THE LICENSE OF :
: Administrative Action
GEARY S. BARNES :
License # 42RA00371200 : FINAL ORDER
: OF DISCIPLINE
TO ENGAGE IN THE PRACTICE OF :
REAL ESTATE APPRAISING IN :
THE STATE OF NEW JERSEY :

This matter was opened to the New Jersey Board of Real Estate Appraisers (the "Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

1. Geary S. Barnes ("Respondent") is a State Licensed Real Estate Appraiser in the State of New Jersey and has been a licensee at all times relevant hereto.

2. Pursuant to N.J.S.A. 45:14F-18 and N.J.A.C. 13:40A-5.3, all licensed and certified real estate appraisers are required to complete all continuing education requirements established by "The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria" promulgated by the Appraisal Qualifications Board of the Appraisal Foundation (the

"AQB"). The AQB requirements are incorporated by reference in the Board's regulations. For the two year period between January 1, 2010 and December 31, 2011, the AQB Qualification Criteria mandated that appraisers complete a minimum of twenty-eight (28) class hours of approved continuing education.

3. Pursuant to N.J.A.C. 13:40A-5.4, all licensed and certified appraisers are required to complete a seven hour National Update Course on the Uniform Standards of Professional Appraisal Practice ("USPAP"), or its equivalent, at least once every 24 months. The AQB Qualification Criteria similarly mandate that appraisers must successfully complete the seven hour USPAP Update Course, or its equivalent, every two calendar years.

4. Pursuant to N.J.A.C. 13:40A-5.8, licensees or certificate holders are required to maintain documentation for at least four years of continuing education hours completed in order to verify program attendance and/or activity completion.

5. On or about December 13, 2011, Respondent completed and submitted an online biennial license renewal form, for the period January 1, 2012 through December 31, 2013, and Respondent's license was then renewed through December 31, 2013.

6. Respondent was asked on the biennial renewal application whether Respondent "completed the continuing education requirement during the past two years," referring to the biennial renewal period of January 1, 2010 through December 31, 2011. The renewal application included specific instructions regarding this question, which read:

As a condition of renewal, licensees are required to obtain at least 28 credit hours of approved continuing education for each biennial renewal period subsequent to licensure/certification or 14 hours of continuing education if initially licensed or certified in the first six months of the second year. If initially licensed or certified during the last six months of the second year, no continuing education is required. If you are exempt from this requirement for this renewal period only, please answer "yes" to this question. Credits may not be carried over to another renewal period.

Respondent answered "yes" to the question.

7. Respondent was asked on the biennial renewal form whether Respondent successfully completed the seven hour National USPAP Update Course, or its equivalent, during the past two years, referring to the biennial period of January 1, 2010 through December 31, 2011. The renewal application included specific instructions regarding this question, which read:

As a condition of renewal, licensees must successfully complete the seven-hour National USPAP Update Course,

or its equivalent, at a minimum of every two years. Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB.

Respondent answered "yes" to this question.

8. Respondent certified, when submitting the renewal application, that all of the information on the renewal form was true and complete to the best of Respondent's knowledge, and acknowledged awareness that if any of the information submitted was willfully false, Respondent would be subject to punishment and/or disciplinary sanction to include license suspension or revocation or the imposition of civil penalties as provided by law.

9. After January 1, 2012, the Board commenced a continuing education audit, asking a random sampling of its licensees to submit documentation to verify completion of required continuing education. Respondent was selected for inclusion within the continuing education audit.

10. On or about February 22, 2012, all licensees selected for inclusion in the audit were sent a notice, by regular mail, addressed to the address of record that the licensee maintained with the Board, advising of the need to supply copies of

documentation maintained to verify continuing education hours claimed.

11. Respondent replied to the audit, but did not supply any documentation verifying Respondent's completion of any hours of continuing education or completion of a seven hour USPAP Update Course, or its equivalent. Respondent maintained that his records were in storage in Houston, Texas. Respondent stated he would attempt to locate the necessary documentation when he traveled to Houston on or about March 26, 2012. Respondent failed to provide any further documentation or correspondence.

CONCLUSIONS OF LAW

Respondent failed to demonstrate, to the satisfaction of the Board, completion of the required twenty-eight (28) hours of approved continuing education for the two year period between January 1, 2010 and December 31, 2011. The Board therefore found Respondent in violation of N.J.A.C. 13:40A-5.3, which in turn subjected Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and 45:1-21(h).

Respondent failed to demonstrate, to the satisfaction of the Board, completion of a seven hour USPAP Update Course, or

its equivalent, for the two year period between January 1, 2010 and December 31, 2011. The Board therefore found Respondent in violation of N.J.A.C. 13:40A-5.4, which in turn subjected Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and 45:1-21(h).

Based on the above findings and conclusions, the Board further found that Respondent falsely certified on the renewal application that all responses to all questions that were asked on that application were true. By doing so, the Board found that Respondent engaged in misrepresentation, and was therefore subject to sanction pursuant to N.J.S.A. 45:1-21(b).

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline suspending Respondent's license and imposing a two thousand five hundred dollar (\$2,500) civil penalty was entered on December 20, 2012. Copies were served upon Respondent via regular and certified mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the thirtieth day following entry unless Respondent requested a modification or dismissal of the stated findings of fact and conclusions of law by setting forth in writing any and all

reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Respondent replied to the Provisional Order and acknowledged that he was unable to locate any certificates of completion for continuing education taken during January 1, 2010 - December 31, 2011. In April 2012, Respondent completed twenty-eight (28) hours of continuing education, including a seven hour USPAP Update course. In response to the Provisional Order, Respondent submitted the certificate of completion from April 2012. Respondent expressed concern that his failure to provide the certificates in response to the first audit letter resulted in the filing of the Provisional Order. Whether Respondent had submitted those certificates in response to the audit, or in response to the Provisional Order, the end result would have been the same. Respondent failed to complete the continuing education when he was required to do so and provided false answers on his renewal application concerning completion of continuing education.

The Board reviewed Respondent's submissions and determined

that further proceedings were not necessary and that no material discrepancies had been raised. The Board was not persuaded that the submitted materials merited further consideration as Respondent did not dispute the findings of fact or conclusions of law. Inasmuch as Respondent subsequently completed continuing education which may be applied to cure the deficiency of the previous biennial period, the Board determined that suspension was no longer warranted.

WHEREFORE, it is on this 27th day of February, 2013

ORDERED that:

1. Continuing education hours taken after December 31, 2011 and applied to cure the deficiency from the previous biennial period shall not be used to satisfy the requirements of the current biennial period. Respondent shall complete an additional twenty-eight (28) hours of continuing education prior to December 31, 2013 to satisfy the requirements of the current biennial period.

2. Respondent is hereby assessed a civil penalty in the amount of two thousand five hundred dollars (\$2,500). Said penalty is an aggregate penalty, which includes a penalty in the amount of one thousand dollars (\$1,000) for failing to complete

28 hours of required continuing education; one thousand dollars (\$1,000) for having provided false answers to two questions on the biennial renewal application (that is, falsely claiming completion of twenty-eight (28) hours of continuing education credit and falsely claiming completion of a seven hour USPAP Update Course, or its equivalent); and five hundred dollars (\$500) for failing to complete a seven hour USPAP Update Course, or its equivalent.

Payment shall be made by certified check or money order payable to the State of New Jersey, delivered or mailed to Charles Kirk, Executive Director, State Board of Real Estate Appraisers, P.O. Box 45032, Newark, New Jersey 07101. Payment shall be made no later than 15 days after the date of filing of this Final Order of Discipline. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

NEW JERSEY STATE REAL
ESTATE APPRAISER BOARD

By: 
John A. McCann
Board President